

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07

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UNCLAS EC BRUSSELS 11369

PASS TO THE US PATENT OFFICE FOR JAMES T. SHEEHAN

E.O. 11652: N/A

TAGS: EIND, EEC

SUBJECT: EC PATENT CONVENTION SIGNED BY MEMBER STATES

REF: A. EC BRUSSELS 9892

B. EC BRUSSELS 5177

1. ON DECEMBER 15 IN LUXEMBOURG THE MEMBER STATES OF THE EC,FOLLOWING A MONTH LONG DIPLOMATIC CONFERENCE, SIGNED THE CONVENTION CREATING THE EC PATENT. WE ARE TRANSMITTING A MEMEOGRAPHED COPY OF THE CONVENTION TO EUR/ RPE ATTENTION BRESLER. THE FINAL TEXT WITH EDITORIAL CORRECTIONS WILL APPEAR IN THE OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES IN LATE JANUARY.

2. THE EUROPEAN COMMISSION IS PLEASED WITH THE FINAL DOCUMENT, WHICH REFLECTS, BY AND LARGE, ITS POSITIONS. THE CONVENTION WILL MAKE IT POSSIBLE FOR THE EUROPEAN PATENT OFFICE IN MUNICH, WHICH WAS SET UP BY THE EUROPEAN PATENT CONVENTION OF 1973,TO ISSUE A COMMUNITY PATENT WHICH WILL BE VALID IN IN ALL NINE MEMBER STATES. (THE COMMUNITY PATENT WILL COME INTO EFFECT AFTER RATIFICATION OF THE CONVENTION BY THE MEMBER STATES, WHICH IS EXPECTED TO TAKE AT UNCLASSIFIED

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LEAST TWO YEARS). THE BASIC PRINCIPLE OF THE COMMUNITY

PATENT IS THAT IT COVERS ALL MEMBER STATES AND HAS THE SAME EFFECT THROUGHOUT THE EC. THERE ARE SOME DEVIATIONS FROM THIS PRINCIPLE. ONE IS THAT INFRINGEMENT PROCEEDINGS REMAIN WITHIN THE JURISDICTION OF NATIONAL COURTS, WHICH PRESENTS THE POSSIBILITY FOR DIVERGENT OUTCOMES. PROCEEDINGS WILL ONLY BE CENTRALIZED AT A LATER DATE. ANOTHER IS THAT FOR A TRANSITIONAL PERIOD A PATENT APPLICANT MAY HAVE THE CHOICE BETWEEN A COMMUNITY PATENT AND A EUROPEAN PATENT WHICH ONLY COVERS SOME OF THE MEMBER STATES.

3. WE UNDERSTAND THAT PROPOSALS TO LIMIT TREATY ARTICLES 32 AND 78, WHICH FORBID THE PARTITIONING OF THE COMMON MARKET, WERE NOT APPROVED. THE COMMISSION HAD STRONGLY OPPOSED THESE PROPOSALS (SEE REFTEL A).
GREENWALD

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Message Attributes

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Disposition History: n/a
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